



DEPARTMENT OF THE NAVY
BUREAU OF SHIPS
WASHINGTON 25, D. C.

IN REPLY REFER TO
NObs-4813
Ser 158-41

CONTRACT NObs-4813

For the Donation of

THE U.S.S. MASSACHUSETTS (ex-BB-59)

THIS CONTRACT, entered into this 4th day of June 1965, by and between the UNITED STATES OF AMERICA (hereinafter called the "Government"), represented by the Department of the Navy, and the U.S.S. MASSACHUSETTS MEMORIAL COMMITTEE, INCORPORATED, (hereinafter referred to as the "COMMITTEE"), a non-profit corporation organized under the laws of the Commonwealth of Massachusetts;

WITNESSETH:

WHEREAS, the Act of August 10, 1956, (P.L. 1028 84th Congress) 10 U.S.C. 7308, authorizes the Secretary of the Navy to transfer by gift or otherwise, on terms prescribed by him, an obsolete vessel of the Navy to any State of the United States or any corporation or association whose charter denies it the right to operate for profit; and

WHEREAS, the COMMITTEE has applied for donation of the U.S.S. MASSACHUSETTS (hereinafter called the "Vessel") and has indicated its intention to preserve and exhibit the Vessel as a permanent war memorial; and

WHEREAS, the COMMITTEE agrees to and undertakes the obligation to make and keep the Vessel safe and presentable for public exhibition and inspection, at no expense to the Government; and

WHEREAS, notice of the proposed transfer has been sent to the Congress, sixty calendar days of continuous session have expired since then, and no resolution has been passed by the Congress stating in substance that it does not favor the proposed transfer.

NOW, THEREFORE, in consideration of the foregoing, the Government agrees to transfer the Vessel to the COMMITTEE and the COMMITTEE agrees to accept the Vessel, subject to the following terms and conditions:

1. The Government shall, subject to the provisions of paragraph 5, deliver the Vessel to the COMMITTEE at Norfolk, Virginia on an "as is, where is," basis and without warranty of any kind, and notify the COMMITTEE of the delivery date

sufficiently in advance thereof to enable the COMMITTEE to make necessary arrangements for acceptance of delivery.

2. The COMMITTEE shall:

- (a) Accept the Vessel upon delivery by the Department of the Navy.
- (b) Establish the Vessel, on a non-profit basis, as a public memorial and exhibit at a suitable site in the State of Massachusetts and maintain such establishment in such a manner that it (i) will not cast discredit upon the Navy or upon the proud tradition of this historic vessel, and (ii) will not allow the Vessel to become a menace to navigation, public health or safety.
- (d) Maintain the Vessel in condition satisfactory to the Department of the Navy. To that end the COMMITTEE shall install not later than July 15, 1965, a 70K Bollard on its land ahead of the bow of the Vessel as shown on the preliminary plan dated May 29, 1965, and shall place and set securely, in accordance with good marine practice and subject to the approvals hereinafter provided, two battleship anchors now on board the Vessel, one off the port bow and one off the port quarter as shown on said plan. The COMMITTEE shall diligently pursue to completion at the earliest practicable date the construction and installation of a permanent mooring arrangement acceptable to the Navy. The maintenance obligations shall include but shall not be limited to (i) the performance of all necessary painting and cleaning of exterior surfaces and interior compartments and passageways open to the public, (ii) the provision and maintenance in all public and private spaces of such handrails, warning signs, fire protection, lighting and ventilation systems and other safety devices as are necessary to insure the safety of the visiting public and of maintenance personnel aboard the Vessel, (iii) the assurance of the watertight integrity of the hull while the Vessel is afloat, (iv) the provision and maintenance of safe and efficient means of access and egress, (v) the provision and maintenance of suitable additional sanitary facilities for visitors, which facilities may be aboard the Vessel or near the gangway ashore, and (vi) such other safety and maintenance work as the Government may determine to be reasonably necessary. All the obligations hereunder shall be performed by the COMMITTEE at its own expense and without reimbursement or contribution by the Government. All work performed hereunder shall be subject to the approval of the Industrial Manager, USN, First Naval District.

- (d) Procure and maintain, at its own expense without reimbursement or contribution by the Government, from and after the delivery of the Vessel, Marine Hull and Protection and Indemnity liabilities insurance to cover the Vessel so long as the Vessel is waterborne, and Fire and Extended Coverage insurance including risks of vandalism and malicious mischief in the event the Vessel is land based or securely moored in a manner acceptable to the Department of the Navy, in an amount not less than \$500,000; and third party liability insurance in the amount of \$300,000 for all claims and \$100,000 for any one single claim, which will at all times protect the United States Government, its agents or employees, from claims resulting or alleged to have arisen from fault, negligence, wrongful act or omission of the Government, its agents or instrumentalities, or their agents or employees in berthing, preparation for use, repairing or any other use of the Vessel following delivery thereof. Such insurance shall as to form and insurers be subject to the approval of the Insurance Branch, Office of Naval Material, Department of the Navy, Washington, D.C. 20360.
- (e) Prohibit members of the general public from visiting aboard the Vessel prior to the accomplishment of all work necessary to make the Vessel safe and presentable for public inspection, except as may be authorized by the Industrial Manager, First Naval District prior to the completion of such work.
- (f) Not to transfer or otherwise dispose of this Vessel or any part thereof or any interest therein without the prior consent of the Secretary of the Navy or his duly authorized representative.

3. In the event that the Vessel is lost or destroyed prior to the time of transfer, by fire, shipwreck, act of Providence or of a foreign power or by any other means whatsoever, whether by negligence on the part of the Government, or not, this Agreement shall become void and of no effect.

4. Upon delivery to and acceptance by the COMMITTEE, title to the Vessel shall vest in the COMMITTEE and title shall remain in the COMMITTEE until transferred under paragraph 2(f) or paragraph 8 of this contract.

5. The Government shall not be liable to the COMMITTEE in any manner whatsoever for damages or otherwise on account of delayed delivery or non-delivery of the Vessel or for any other reason.

6. No expense shall result to the Government from the transfer herein.

7. Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Chief of the Bureau of Ships who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the COMMITTEE. The decision of the Chief of the Bureau of Ships shall be final and conclusive unless within 30 days from the date of receipt of such copy, the COMMITTEE mails or otherwise furnishes to the Chief of the Bureau of Ships a written appeal addressed to the Secretary. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the COMMITTEE shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the COMMITTEE shall proceed diligently with the performance of the contract and in accordance with the decision of the Chief of the Bureau of Ships.

8. The Government may during a national emergency request the COMMITTEE to return the Vessel and the COMMITTEE shall if and when requested to do so, return the Vessel to the Government. In the event the COMMITTEE, or its assigns, shall fail to perform the obligations assumed under this contract, the Secretary of the Navy or his duly authorized representative may terminate this contract provided that written notice to terminate, specifying the particulars wherein it is claimed that this Contract has been violated, is transmitted, by registered mail, to the COMMITTEE. The COMMITTEE shall have ninety (90) days from receipt of the above-mentioned written notice to cure the violations or deficiencies set forth in said notice. If, at the end of such time, it appears to the Secretary of the Navy, or his duly authorized representative, that the same have not been cured, then the contract shall be deemed to be terminated, in which event the COMMITTEE shall forfeit to the Government any and all rights it may have in the Vessel, including any improvements made to the Vessel by the COMMITTEE, as the Secretary of the Navy or his duly authorized representatives may decide, and shall transfer title to the Government if the Secretary of the Navy or his authorized representative so directs.

9. The term "Government" means the Secretary, Under Secretary or Assistant Secretary of the Navy, the Chief of the Bureau of Ships, and any other duly authorized representative, acting within the limits of his authority, that the afore-designated officials may appoint.

IN WITNESS WHEREOF, the parties hereto have duly executed this contract as of the date first above written.

THE UNITED STATES OF AMERICA

By S/ Kenneth E. BeLieu
UnderSecretary of the Navy

U.S.S. MASSACHUSETTS MEMORIAL COMMITTEE, INC.

By _____

Title _____

CERTIFICATE

I, _____ certify that I am the Secretary of the U.S.S. MASSACHUSETTS MEMORIAL COMMITTEE, INC.; that

who signed the above contract on behalf of the said COMMITTEE was then President of the U.S.S. MASSACHUSETTS MEMORIAL COMMITTEE, INC. and that said contract was duly signed for and in behalf of the COMMITTEE, all by authority duly given.